

08-04-2022
Subha
Item no.30
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

C.R.R 733 of 2020

In the matter of : **Sri Soumendra Nath Nath**petitioner.

In Re : An application under Section 482 of the Code of Criminal Procedure.

Mr. Prantick Ghosh
Mr. Supratik Jana
.....for the petitioner.

Mr. Prathapratim Das
.....for the opposite party nos. 2,3 & 4.

Mr. Arijit Ganguly
Ms. Manisha Sharma
.....for the State.

The subject matter of the case relate to the Judgement dated January 17, 2020 passed by the learned Additional Sessions Judge, Fast Track Court No. 2, Barasat in Criminal Revision No. 2 of 2019 which has been challenged by the petitioner.

The petitioner is aggrieved by the learned sessions court setting aside the order passed by the learned Magistrate on 12.11. 2018 in M. P. Case No. 895 of 2017 under Section 107 of the Code of Criminal Procedure.

I find that the learned sessions court while disposing of the revisional application has observed that "*learned court below has passed the impugned order without applying his judicial mind, arbitrarily, whimsically, without assigning any reason which is not*

sustained in the eye of law.”

Additionally, I have also gone through the contents/averments made in the application under Section 107 of the Code of Criminal Procedure. If the foundation of the case is to be considered, paragraphs 4, 5 & 6 are supposedly the cause of action. Paragraph 4 refers to a maintenance case being filed at the instance of the stepmother namely, Namita Nath being opposite party no. 4. The contention over there is that in spite of receiving pension, she has filed the maintenance case. Paragraph 5 refers to threatening the petitioner, which is an apprehension. Paragraph 6 refers to a G. D. entry being registered with the local police station.

Neither the contents of the General Diary entry in respect of any particular incident has been referred to, nor the application under section 107 of the Code of Criminal Procedure satisfies any particular incident which would affect the breach of the peace or the tranquility of the locale. Absolutely, a family dispute without any rhyme or reason has been given the cloak for the purposes of invoking the provisions of Section 107 of the Code of Criminal Procedure.

The contents of the M. P Case No. 895 of 2017 fails to make out any case for justifying the invocation of the provisions of Section 107 of the Code of Criminal Procedure.

As such, I do not disagree with the finding of the learned Sessions Judge and the observations made therein while exercising its revisional application.

Further, in view of the observations made above, I am of the opinion that further continuance of any proceeding under M. P. Case

No. 895 of 2017 is unwarranted.

As such, M. P. Case No. 895 of 2017 is quashed. Accordingly, the revisional application being CRR 733 of 2020 is dismissed.

All pending applications, if any, in connection with the revisional application, are consequently disposed of.

Interim order, if any, is hereby vacated.

Report submitted by Inspector in Charge, Eco Park Police Station, Bidhannagar Police Commissionerate through the learned advocate for the State be kept with the record.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]